

**STATE OF MICHIGAN
IN THE SUPREME COURT**

**THE PILGRIM'S REST BAPTIST CHURCH,
a/k/a PILGRIM REST MISSIONARY
BAPTIST CHURCH, NATHAN MAYFIELD,
and STEPHON BLACKWELL,**

Plaintiffs-Appellees,

-vs-

Supreme Court Case No. 151680

Court of Appeals Case No. 318797

Kent County Circuit Court Case No. 11-12242 CZ

ARTHUR PEARSON, SR.,

Defendant-Appellant,

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**DEFENDANT-APPELLANT ARTHUR PEARSON SR.'S
REPLY BRIEF IN SUPPORT OF APPLICATION FOR LEAVE TO APPEAL**

CERTIFICATE OF SERVICE

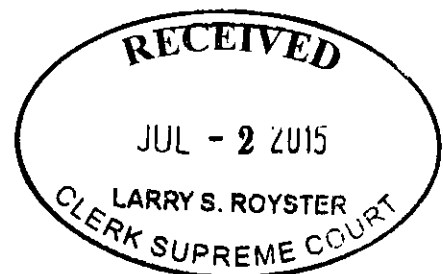


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I. INTRODUCTION

The significant Federal and Michigan constitutional issues in this case transcend the narrow, provincial concerns of the parties and necessitate that the Michigan Supreme Court provide clarity to religious institutions and ministerial employees regarding the congregation's freedom to select its own spiritual leader, and freedom of religious institutions and ministerial employees to enter into judicially enforceable written contracts. US Const Amend I, Amend XVI; Const 1963, Art 1, §4. As in any church split case, Plaintiffs-Appellees' response to Pastor Arthur Pearson Sr.'s Application reflects overwhelming bitterness, acrimony, and disagreement regarding the facts. It is not surprising that the religious fervor of the hundreds of supporters and opponents of the Pastor is also reflected in the strident arguments of both counsel. But regardless of which party is right or wrong, or even whether the Court of Appeals reached the correct result, the Supreme Court must settle the matter and provide guidance to the State of Michigan's contracting religious institutions, ministerial employees, and their legal counsel attempting to successfully navigate these murky constitutional waters. The brief, conclusory Michigan Court of Appeals decision in this case does not aid in this effort. Questions remain including whether ministerial employment contracts in general are enforceable, whether provisions concerning ministerial discipline and termination are enforceable, whether provisions concerning authority allocation between Church leaders and the congregation are enforceable, and whether provisions concerning wages and benefits are enforceable.

Significantly, the parties agree on a few important issues:

1. Plaintiff concedes the issues in the Pastor's Application involve legal principles of major significance to the state's jurisprudence. Plaintiffs/Appellees' Response, p. 1;
2. The Michigan Supreme Court has not addressed or resolved these significant constitutional issues. Plaintiffs/Appellees' Response, p. 14; and
3. Plaintiffs-Appellees finally admit removal of Arthur Pearson Sr. as pastor of Pilgrim's Rest Baptist Church required a vote of the congregation. Plaintiffs/Appellees' Response, p. 11.

II. THE SUPREME COURT SHOULD GRANT LEAVE TO APPEAL BECAUSE THE PARTIES AGREE THIS APPEAL INVOLVES LEGAL PRINCIPLES OF MAJOR CONSTITUTIONAL SIGNIFICANCE TO THE STATE'S JURISPRUDENCE.

On page 1 of Plaintiffs-Appellees' Response to Pastor Pearson's Application, they concede legal principles of major significance to the State's jurisprudence are at issue:

"The appeal *does* involve legal principles of major constitutional significance to the State of Michigan's jurisprudence..."

This concession alone is sufficient for the Court to grant the Pastor's Application in accordance with MCR 7.302(B)(3). To be fair, Plaintiffs-Appellees qualify the above quote by stating they believe those significant legal principles were properly treated by the Michigan Court of Appeals. This statement and Plaintiffs-Appellees' response in general reveals that they merely agree with the result in the Court of Appeals and continue to disagree with the Pastor concerning the merits of the appeal. The briefing also shows the efforts of both parties to use cases in other jurisdictions to support their position because of the lack of guidance and clarity in Michigan case law. The Supreme Court should allow further briefing on the merits to provide such guidance and clarity and resolve these constitutional issues of major significance to Michigan's religious institutions, ministerial employees, religious leaders and administrators, congregations, and the public interest.

III. THE SUPREME COURT SHOULD GRANT LEAVE TO APPEAL BECAUSE THE PARTIES AGREE A CHURCH CONGREGATIONAL VOTE WAS REQUIRED FOR ADVERSE ACTION TO BE TAKEN AGAINST THE PASTOR.

Plaintiffs-Appellees' admission that a congregational vote was required for removal of Pastor Pearson must lead to the conclusion that the Court of Appeals decision is clearly erroneous and causes the Pastor material injustice in accordance with MCR 7.302(B)(5). The Church held a vote in November 2011 and elected to retain the Pastor. Until June 2012, at the earliest, **the parties agree the church, undisputedly defined as the congregation, never acted against the Pastor.** But in December 2011, without a congregational vote, Plaintiffs-Appellees suspended the Pastor with pay. In January 2012, without a congregational vote, Plaintiffs-Appellees suspended the Pastor and terminated his contractual salary and employee benefits, while the Pastor was still performing his ministerial duties. In fact, Plaintiffs-Appellees and the Trustees did not inform the congregation about Plaintiffs-Appellees' December disciplinary action against the Pastor until several days after they and the Church Trustees took action. Plaintiffs-Appellees and the Trustees did not inform the congregation about the January 2012 disciplinary action taken against the Pastor until *several weeks* after they and the Church Trustees took action. Plaintiffs-Appellees now rely on the June 2012 election that took place after the illegal purging of the membership (only 222 members voted in June 2012 as stated in Plaintiffs/Appellees' Response, p. 4, as contrasted with the 422 members who voted in November 2011) and several months after Plaintiffs-Appellees and the Trustees violated the employment contract by disciplining the Pastor and terminating his salary and benefits in December 2011 and January 2012.

Even if the June 2012 election was valid, which is in dispute and the subject of another lawsuit, at the very least, Pastor Pearson is contractually entitled to the monetary value of his

salary and benefits from the termination date in January 2012 through the date of the election in June 2012. See *Jenkins v Trinity*, 356 Ill App 3d 504; 825 NE 2d 1206 (2005) (stating “a church can contract with its own pastors just as it can with outside parties. An agreement for wages and benefits is governed by principles of civil contracts” and taking the neutral principles of law approach to enforce wages and benefits provision in a ministerial employment contract); *Bodewes v Zuroweste*, 15 Ill App 3d 101, 103–104; 303 NE 2d 509, 511 (1973); *Gabriel v Immanuel Evangelical Lutheran Church*, 266 Ill App 3d 456–460, 203; Ill Dec 761; 640 NE 2d 681 (1994) (“Nothing forbids the enforcement of church-made contracts which have been fully performed. Enforcing vested secular, contractual rights is clearly different from reviewing the subjective, ecclesiastical, personnel-appointment process of the church”) *Goodman v Temple Shir Ami, Inc*, 712 So 2d 775 (Fla App,1998) (contract enforceable by court where temple refused to pay compensation due to dismissed rabbi); *Dobrota v Free Serbian Orthodox Church*, 191 Ariz 120; 952 P 2d 1190 (1998) (court had power to calculate money owed to dismissed priest); *Fellowship Tabernacle, Inc. v Baker*, 125 Idaho 261; 869 P 2d 578 (1994) (breach of contract claim may be heard in civil courts); *Mayhew v Vanway*, 371 SW 2d 90 (Tex Civ App,1963) (court assumed jurisdiction of minister's employment contract with church); *Pearson v Church of God*, 325 SC 45; 478 SE 2d 849 (1996) (terms of minister's pension plan can be reviewed by courts); *Way v Ramsey*, 192 NC 549; 135 SE 454 (1926) (contract law governs church's liability for pastor's salary); *Gipe v Superior Court of Orange County*, 124 Cal App 3d 617; 177 Cal Rptr 590 (1981)(judicial review permitted where Church promised minister one week of severance pay for each year of his service).

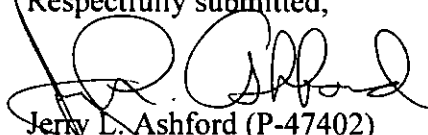
The Michigan Supreme Court must determine whether Michigan will adopt a neutral principles approach to written ministerial employment contracts and other relevant internal governing Church documents as the Pastor advocates or the general subject matter approach taken by the Court of Appeals. The Court of Appeal's preferred subject matter approach in *Pilgrim's Rest Baptist Church v Pearson*, Case No. 318797, 2015 WL 1880202, encourages bullying, threats, and violence in congregational churches and fails as a matter of public policy. Contract rights are property rights and, as the Court of Appeals noted in its decision, quoting *Jones v Wolf*, 443 US 595, 602; 99 S Ct 3020; 61 L Ed 2d 775 (1979): "The State has an obvious and legitimate interest in the peaceful resolution of property disputes...". See *Wiethoff v. St. Veronica School*, 48 Mich.App. 163, 166, 210 N.W.2d 108 (1973)("A contract right is a right in property"). Application of the subject matter approach renders internal governance and organizational documents, such as ministerial employment contracts and Constitution & Bylaws, meaningless. But by utilizing the neutral principles approach to written internal agreements, which avoids *excessive* entanglement with spiritual matters or polity, "... the Court is asked to enforce only the allocation of power that the congregation has already adopted. Rather than imposing a resolution on the congregation, the Court's exercise of jurisdiction protects and implements the congregation's own polity. Failure to extend that protection would effectively consign religious bodies to anarchy, as well as those who hold constitutional authority within a congregation could be thwarted by those who aggressively seized power and acted without lawful authority". Lupu & Tuttle, *Church Autonomy Conference: "The Things that are not Caesar's: Religious Organizations as a Check on the*

Authoritarian Pretensions of the State”: Courts, Clergy, and Congregations: Disputes Between Religious Institutions and Their Leaders, 7 Georgetown Journal of Law & Public Policy, 119, 150-151 (2009). Anarchy caused by the aggressive seizure of power from the congregation by a small, unauthorized group of Trustees led by Plaintiffs-Appellees, is exactly what occurred at Pilgrim’s Rest Baptist Church during the period November 2011-June 2012. The Supreme Court must intervene to ensure protection of the chosen polity of Michigan’s religious congregations.

IV. RELIEF REQUESTED

It is undisputed the Church, in this case undisputedly defined as the congregation, did not act adversely against Pastor Pearson prior to the adverse disciplinary action taken by Plaintiffs-Appellees and the Trustees. Therefore, in accordance with *Watson v Jones*, 80 US 679 (1871) (Churches have freedom to contract and the Courts must enforce such contracts); *Borgman v Bultema*, 213 Mich 684; 182 NW 91 (1921) (Court must determine whether it was “the Church” that acted); *Vincent v Raglin*, 114 Mich App 242; 318 NW2d 629 (1982)(As a threshold issue, the Court must find it was “the Church” that acted); and *Jones v Wolf*, 443 US at 602 (“The State has an obvious and legitimate interest in peaceful property dispute resolution”), Defendant-Appellant requests that this Court grant his application for leave to appeal or, in the alternative, issue an order reversing the Court of Appeals decision, reinstating Defendant-Appellant’s counter-claims, and remanding this case to the trial court for further proceedings.

Respectfully submitted,



Jerry L. Ashford (P-47402)

Attorney for Appellant-Defendant

Dated: July 1, 2015

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CERTIFICATE OF SERVICE

I state that on Wednesday, July 1, 2015, I served a copy of *Defendant-Appellant Arthur Pearson Sr.'s Reply Brief In Support of Application For Leave To Appeal* and this *Certificate of Service* upon the above counsel of record, BERNARD SCHAEFER, ESQ., by United States mail delivery at the above captioned address.


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July 1, 2015

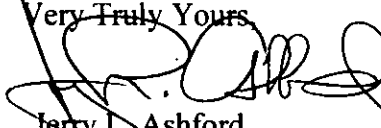
Clerk of the Court
Michigan Supreme Court
Michigan Hall of Justice
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Lansing, MI., 48915

RE: Pilgrim's Rest Baptist Church -vs- ARTHUR PEARSON SR.
Michigan Supreme Court Case No.: 151680

Dear Sir/Madam,

Enclosed you will find nine (9) copies of Defendant-Appellant Arthur Pearson's Reply Brief In Support of Application For Leave to Appeal for filing, a Certificate of Service, and a self-addressed stamped envelope regarding to the above referenced matter

Please return a true copy to the undersigned at the above address.

Very Truly Yours

Jerry L. Ashford

JLA:lp

Enclosures

